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राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 19 फरवरी, 1977/30 माघ, 1898

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATION

Simla -2, the 14th February, 1977

No. LLR-D(6)5/77.—The Himachal Pradesh Town and Country Planning Ordinance, 1977 (Ordinance No. 2 of 1977) promulgated by the Governor, Himachal Pradesh, under clause (1) of Article 213 of the Constitution of India on the 10th February, 1977, is hereby published in the Rajpatra, Himachal Pradesh, for the information of general public.

**M. C. PADAM,
Under Secretary (Judicial).**

Ordinance No. 2 of 1977

**THE HIMACHAL PRADESH TOWN AND COUNTRY
PLANNING ORDINANCE, 1977**

*promulgated by the Governor of Himachal Pradesh in the Twenty-eighth
Year of the Republic of India.*

An Ordinance to make provision for planning and development and use of land; to make better provision for the preparation of development plans and sectoral plans with a view to ensuring that town planning schemes are made in a proper manner and their execution is made effective, to constitute Town and Country Planning Authority for proper implementation of town and country development plan, to provide for the development and administration of special areas through Special Area Development Authority, to make provision for the compulsory acquisition of land required for the purpose of the development plans and for purposes connected with the matters aforesaid.

Whereas the Legislative Assembly of Himachal Pradesh is not in session and the Governor of Himachal Pradesh is satisfied that the circumstances exist which render it necessary for him to take immediate action;

And whereas instructions of the President of India to promulgate the Ordinance, have been obtained;

Now, therefore in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Himachal Pradesh is pleased to make and promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short title,
extent, com-
mencement
and appli-
cation.

1. (1) This Ordinance may be called the Himachal Pradesh Town and Country Planning Ordinance, 1977.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different areas and for different provisions of this Ordinance.

(4) Nothing in this Ordinance shall apply to—

- (a) lands comprised within a cantonment under the Cantonments Act, 1924;
- (b) lands owned, hired or requisitioned by the Central Government for the purpose of naval, military and air force works;
- (c) lands under the control of railway administration for the purpose of construction and maintenance of works under Chapter III of the Indian Railways Act, 1890; and
- (d) lands owned by any department of the Central Government, where operational constructions are going on.

2. In this Ordinance, unless the context otherwise requires,—

(a) “agriculture” includes horticulture, farming, raising of annual or periodical crops, fruits, vegetables, flowers, grass, fodder, trees or any kind of cultivation of soil, the reserving of land for fodder, grazing or thatching grass, breeding and keeping of live stock including cattle, horses, donkeys, mules, pigs, breeding of fish and keeping of bees, and the use of land ancillary to the farming of land, but does not include—

(i) keeping of cattle purely for the purpose of milking and selling the milk and milk products;

(ii) a garden which is an appendage of buildings; and the expression “agricultural” shall be construed accordingly;

(b) “amenity” includes roads and streets, water and electric supply, open spaces, parks, recreational area, natural features, play grounds, street lighting, drainage, sewerage and other utilities, services and conveniences;

(c) “building” includes any structure or erection, or part of a structure or erection, which is intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not;

(d) “building operation” includes—

(i) erection or re-erection of a building or any part thereof;

(ii) roofing or re-roofing or any part of building or an open-space;

(iii) any material alteration or enlargement of a building;

(iv) any such alteration of a building as is likely to alter its drainage or sanitary arrangements, or materially effect its security;

(v) the construction of a door opening on any street or land not belonging to the owner;

(e) “commercial use” means the use of any land or building or part thereof for the purpose of carrying on any trade, business or profession, or sale or exchange of goods of any type whatsoever and includes running of, with a view to making profit, hospitals, nursing homes, infirmaries, educational institutions, hotels, restaurants and boarding houses (not being attached to any educational institution) sarais, and also includes the use of any land or building for storage of goods or as an officer whether attached to an industry or otherwise;

(f) “Court” means the principal Civil Court of original jurisdiction in the district;

(g) “development” with its grammatical variations means the carrying out of a building, engineering, mining or other operations, in, on, over or under land, or the making of any material change in any building or land or in the use of either, and includes sub-division of any land;

(h) “development plan” means interim development plan or development plan prepared under this Ordinance;

(i) “Director” means the Director of Town and Country Planning appointed under this Ordinance;

(j) “existing land use map” means a map indicating the use to which lands in any specified area are put at the time of preparing the map, and includes the register prepared, with the map giving details of land-use;

- (k) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;
- (l) "member" means a member of a Town and Country Development Authority or a Special Area Development Authority, as the case may be, and includes a Chairman thereof;
- (m) "occupier" includes ;—
 - (i) a tenant;
 - (ii) an owner in occupation of or otherwise using his land;
 - (iii) a rent free tenant ;
 - (iv) a licensee; and
 - (v) any person liable to pay to the owner, damages for the use and occupation of the land ;
- (n) "owner" includes a mortgagee in possession, a person who for the time being is receiving or is entitled to receive, or has received, the rent or premium for any land whether on his own account or on behalf of or for the further benefit or any other person or as an agent, trustee, guardian or receiver for any other person or for religious or charitable institutions or who would receive the rent or be entitled to receive the rent or premium if the land were to be let and includes a Head of a Government Department, General Manager of a Railway and the Chief Executive Officer, by whatever name designated, or a local authority, statutory authority, company, corporation or undertaking in respect of properties under their control;
- (o) "planning area" means any area declared to be planning area under this Ordinance ;
- (p) "region" means any area established to be a region under this Ordinance;
- (q) "regional plan" means a plan for the region prepared under this Ordinance and approved by the State Government;
- (r) "sector" means any sector of a planning area for which, under the development plan, a detailed sectoral plan is prepared ;
- (s) "slum area" means any predominantly residential area, where the dwellings which by reason of dilapidation, over-crowding, faulty arrangement of design, lack of ventilation, light or sanitary facilities or any combination of these factors are detrimental to safety, health or moral and which is defined by a development plan as a slum area ;
- (t) "special area" means a special area designated as such under section 66;
- (u) "Special Area Development Authority" means an authority constituted under section 67 ;
- (v) "town development scheme" means a scheme prepared for the implementation of the provisions of a development plan by the Town and Country Development Authority ;
- (w) "Town and Country Development Authority" means an authority established under section 40.

CHAPTER II

DIRECTOR OF TOWN AND COUNTRY PLANNING

3. (1) After the commencement of this Ordinance, the State Government shall, by notification in the Official Gazette, appoint an officer for the purpose of carrying out functions assigned to him under this Ordinance, as the Director of Town and Country Planning for the State and may appoint such other categories of officers as it may deem fit.

Director and other officers.

(2) The Director shall exercise such powers and perform such duties as are conferred or imposed upon him by or under this Ordinance and the officers appointed to assist the Director shall, within such areas as the State Government may specify, exercise such powers and perform such duties conferred and imposed on the Director by or under this Ordinance as the State Government may, by special or general order, direct.

(3) The officers appointed to assist the Director shall be subordinate to him and shall work under his guidance, supervision and control.

CHAPTER III

REGIONAL PLANNING

4. (1) The State Government may, by notification—

Establish-
ment of re-
gions.

- (a) declare any area in the State to be a region for the purposes of this Ordinance ;
- (b) define the limits of such area ; and
- (c) specify the name by which such region shall be known.

(2) The State Government may, by notification, alter the name of any such region and on such alteration, any reference in any law or instrument or other document to the region shall be deemed to be a reference to the region as renamed, unless expressly otherwise provided or the context so required.

(3) The State Government may, by notification,—

- (a) alter the limits of a region so as to include therein or exclude therefrom such area as may be specified in the notification ;
- (b) amalgamate two or more regions so as to form one region ;
- (c) devide any region into two or more regions ; or
- (d) declare that the whole or part of the area comprising a region shall cease to be a region or part thereof.

5. Subject to the provisions of this Ordinance and the rules made thereunder, it shall be the duty of the Director—

Director to
prepare re-
gional plans.

- (i) to carry out a survey of the regions ;
- (ii) to prepare an existing land use map ; and
- (iii) to prepare a regional plan.

6. (1) The Director shall, with a view to prepare the existing land use map, and other maps as are necessary for the purpose of regional plan,—

- (a) carry out such surveys as may be necessary ;
- (b) obtain from any department of Government and any local authority such maps, survey reports and land records as may be necessary for the purpose .

(2) It shall be the duty of every Govt. Department and local authority to furnish, as soon as may be possible, maps, reports and record, as may be required by the Director.

7. The Regional plan shall indicate the manner in which land in the region should be used, the phasing of development, the net work of communications and transport, the proposals for conservation and development of natural resources, and in particular—

- (a) allocation of land to such purposes as residential, industrial, agricultural, or as forests or for mineral exploitation ;
- (b) reservation of open spaces for recreational purposes, gardens, tree belts, and animal sanctuaries ;
- (c) access or development of transport and communication facilities such as roads, railways, water ways, and the alocation and development of airports ;
- (d) requirements and suggestions for development of public utilities such as water supply, drainage, and electricity ;
- (e) allocation of areas to be developed a “special areas” wherein new towns, townships, large industrial estates or any other type of large development projects may be established ;
- (f) landscaping and the preservation of areas in their natural state ;
- (g) measures relating to the prevention of erosion, including rejuvenation of forest areas ;
- (h) proposals relating to irrigation, water supply or flood control works.

8. (1) After preparation of the existing land use map, the Director shall cause to be prepared a draft regional plan and publish it by making a copy thereof available for inspection and publishing a notice in such form and manner as may be prescribed inviting objections and suggestions from any person with respect to the draft plan before such date as may be specified in the notice, such date not being earlier than sixty days from the publication of the notice. Such notice shall specify in regard to the draft plan the following particulars, namely:—

- (a) the existing land use map and the narrative report thereon ;
- (b) a narrative report supported by necessary maps and charts explaining the provisions of the draft plan ;
- (c) a note indicating the priorities assigned to works included in the draft plan and the phasing of the programme of development as such ;
- (d) a note on the role being assigned to the different departments of Government, the Town and Country Development Authorities, the Special Area Development Authorities and the local authorities in the enforcement and implementation of draft plan.

(2) The Director shall consider all the objections and suggestions received by him within the period specified in the notice under sub-section (1) and shall, after giving a reasonable opportunity to all persons affected thereby of being heard, prepare the regional plan containing such modifications, if any, as he considers necessary and submit it to the State Government for approval together with all connected documents, plans, maps and charts.

9. (1) The State Government may approve the draft regional plan submitted under section 8 with or without modification or reject or return the same to the Director for reconsideration.

Finalisation of regional plan.

(2) Immediately after the draft regional plan is approved under sub-section (1), the State Government shall publish in such manner as may be prescribed, a notice stating that the regional plan has been approved and mentioning a place where a copy of the plan may be inspected at all reasonable hours and shall specify therein a date on which the regional plan shall come into operation:

Provided that where the State Government approves the draft regional plan with modifications, it shall not be published, unless the State Government, having published such modifications in the Official Gazette along with a notice inviting objections and suggestions thereon, within a period of not less than thirty days from the date of publication of such notice have considered the objections and suggestions after giving a reasonable opportunity of being heard to persons affected thereby.

10. (1) Notwithstanding anything contained in any other law for the time being in force, on or after the date of publication of the draft regional plan, no person, authority, department of Government or any other person shall change the use of land for any purpose other than agriculture, or carry out any development in respect of any land contrary to the provisions of the draft plan, without the prior approval of the Director or any officer next to him authorised by the Director, in this behalf.

Restriction on use of land or development thereof.

(2) Notwithstanding anything contained in any law for the time being in force, the permission referred to in sub-section (1) shall not be granted otherwise than in conformity with the provision of the draft or final plan and no permission, if granted, shall be construed to confer any legal right whatsoever on the person seeking the permission.

(3) If any work is carried out in contravention of the provisions of this section, the Municipal Corporation or Municipal Committee within its local area, and the Collector in area outside such local areas, may cause such work to be removed or demolished at the cost of the default, which should be recovered from him in the same manner as an arrear of land revenue :

Provided that no action shall be taken under this sub-section unless the person concerned is given a reasonable opportunity of being heard and is, by a notice called upon to remove or demolish the work within a time specified therein.

(4) Any person aggrieved by the order of the Municipal Corporation, Municipal Committee or Collector, as the case may be, calling upon to remove or demolish the work may prefer an appeal to the Director within fifteen days of the receipt of the notice under sub-section (3) and the order of the Director in such appeal shall be final.

Exclusion from claims of amount in certain cases.

11. Where the regional plan assigns a particular land use to a certain area and any land situate therein is already put to such use, subject to substantially similar restrictions in force under any other law which was in force on the date on which restrictions were imposed by or under this Ordinance and if amount in respect of such restrictions have already been paid under any such other law which was in force for the time being in respect of the property or any right or interest therein to the claimant, or any predecessor in interest of the claimant, the owner shall not be entitled to any further amount on account of injury of damage caused to his rights by reason of the restrictions placed on the use of the land under the provisions of this Ordinance.

Review of regional plan.

12. (1) The Director may, on his own motion or if so required by the State Government shall, at any time after a regional plan has come into operation, undertake the review and evaluation of the regional plan and make such modification in it as may be justified by the circumstances.

(2) The foregoing provisions of this Chapter shall, so far as they can be made applicable, apply to the modification under sub-section (1) as these provisions apply in relation to the preparation, publication and approval of a regional plan.

CHAPTER IV

PLANNING AREA AND DEVELOPMENT PLANS

Planning area.

13. (1) The State Government may, by notification, constitute planning areas for the purposes of this ordinance and define the limits thereof.

(2) The State Government may, by notification,—

- (a) alter the limits of the planning area so as to include therein or exclude therefrom such area as may be specified in the notification;
- (b) amalgamate two or more planning areas so as to constitute one planning area;
- (c) divide any planning area into two or more planning areas;
- (d) declare that the whole or part of the area constituting the planning area shall cease to be a planning area or part thereof.

Director to prepare development plans.

14. Subject to the provisions of this Ordinance and the rules made thereunder, the Director shall—

- (a) prepare an existing land use map;
- (b) prepare on interim development plans;
- (c) prepare a development plan;
- (d) prepare a sectoral plan;
- (e) carry such surveys and inspections and obtain such pertinent reports from Government departments local authorities and public institutions as may be necessary for the preparation of the plans;
- (f) perform such duties and functions as are supplemental, incidental, and consequential to any of the foregoing functions or as may be assigned by the State Government for the purpose of carrying out the provisions of this Ordinance.

15. (1) The Director shall carry out the survey and prepare an existing land use map and, forthwith publish the same in such manner as may be prescribed together with public notice of the preparation of the map and of the place or places where the copies may be inspected, inviting objections and suggestions in writing from any person with respect thereto within thirty days from the date of publication of such notice.

Existing land use maps.

(2) After the expiry of the period specified in the notice published under sub-section (1), the Director may, after allowing a reasonable opportunity of being heard to all such persons who have filed the objections or suggestions, make such modifications therein as may be considered desirable.

(3) As soon as may be after the map is adopted with or without modifications the Director shall publish a public notice of the adoption of the map and the place or places where the copies of the same may be inspected.

(4) A copy of the notice shall also be published in the Official Gazette and it shall be conclusive evidence of the fact that the map has been duly prepared and adopted.

16. On the publication of the existing land use map under section 15—

✓(a) no person shall institute or change the use of any land or carry out any development of land for any purpose other than that indicated in the existing land use map without the permission in writing of the Director;

Provided that the Director shall not refuse permission if the change is for the purpose of agriculture;

(b) no local authority or any officer or other authority shall, notwithstanding anything contained in any other law for the time being in force, grant permission for the change in use of land otherwise than as indicated in the existing land use map without the permission in writing of the Director.

Freezing of land use.

17. (1) As soon as may be, after the declaration of a planning area, the Director shall, within such time as may be necessary, prepare, after consultation with the local authorities concerned, if any, and submit to the State Government, an interim development plan for the planning area or any of its parts and such other area or areas contiguous or adjacent to the planning areas as the State Government may direct to be included in the interim development plan.

Interim development plans.

(2) The interim development plan shall—

(a) indicate broadly the land use proposed in the planning area;

(b) allocate broadly areas or sectors of land for—

(i) residential, industrial, commercial or agricultural purposes;

(ii) open spaces, parks and gardens, green belts, zoological gardens and play grounds;

(iii) public institutions and offices;

(iv) such special purposes as the Director may deem fit;

- (c) laydown the pattern of national and State highways connecting the planning area with the rest of the region, ring roads, arterial roads and the major roads within the planning area;
- (d) provide for the location of airports, railway stations, bus termini and indicate the proposed extension and development of railways and canals;
- (e) make proposals for general landscaping and preservation of natural areas;
- (f) project the requirement of the planning area of such amenities and utilities as water, drainage, electricity and suggest their fulfilment;
- (g) propose broad based regulations for sectoral development, by way of guide lines, within each sector of the location, height, size of building and structures, open spaces, courtyards and the use to which such buildings and structures and land may be put;
- (h) laydown the broad-based traffic circulation patterns in a city;
- (i) suggest architectural control features, elevation and frontages of buildings and structures;
- (j) indicate measures for flood control, prevention of air and water pollution, disposal of garbage and general environmental control.

(3) Subject to provisions of the rules made under this Ordinance for regulating the form and contents of the interim development plan any such plan shall include such maps and such descriptive matter as may be necessary to explain and illustrate the proposals in the interim development plan.

(4) As soon as may be, after the submission of the interim development plan, under sub-section (1) the state Government may, either approve the interim development plan or may approve it, with such modification as it may consider necessary.

(5) The State Government shall publish the interim development plan as approved under sub-section (4) in the Official Gazette. The interim development plan shall come into operation from the date of its publication in the Official Gazette and shall be binding on all local authorities functioning within the planning area.

18. A development plan shall—

Develop-
ment plan.

- (a) indicate broadly the land use proposed in the planning area;
- (b) allocate broadly areas or sector of land for—
 - (i) residential, industrial, commercial or agricultural purposes;
 - (ii) open spaces, parks and gardens, greenbelts, zoological gardens and play grounds;
 - (iii) public institutions and offices;
 - (iv) such special purpose as the Director may deem fit.
- (c) lay down the pattern of national and state highways connecting the planning area with the rest of the region ring roads, arterial roads and the major roads within the planning area;

- (d) provide for the location of air-ports, railway stations, bus termini and indicate the proposed extension and development of railway and canals;
- (e) make proposals for general landscaping and preservation of natural areas;
- (f) project the requirement of the planning area of such amenities and utilities as water, drainage, electricity and suggest their fulfilment;
- (g) propose broad based regulations for sectoral development, by way of guidelines, within each sector of the location, height, size of buildings and structures, open spaces, court yards and the use to which such buildings and structures and land may be put;
- (h) lay down the broad-based traffic circulation patterns in a city;
- (i) suggest architectural control features, elevation and frontage of buildings and structures;
- (j) indicate measures for flood control, prevention of air and water pollution, disposal of garbage and general environmental control.

19. (1) The Director shall forthwith publish the draft development plan prepared under section 18 in such manner as may be prescribed together with a notice of the preparation of the draft development plan and the place or places where the copies may be inspected, inviting objections and suggestions in writing from any person with respect thereto within thirty days from the date of publication of such notice. Such notice shall specify in regard to the draft development plan the following particulars, namely:—

Publication of draft development plan.

- (i) the existing land use maps;
- (ii) a narrative report, supported by maps and charts, explaining the provisions of the draft development plan;
- (iii) the phasing of implementation of the draft development plan as suggested by the Director;
- (iv) the provisions for enforcing the draft development plan and stating the manner in which permission to development may be obtained;
- (v) an approximate estimates of the cost of land acquisition for public purposes and the cost of works involved in the implementation of the plan.

(2) The Director shall, not later than ninety days after the date of expiry of the notice period under sub-section (1), consider all the objections and suggestions as may be received within the period specified in the notice under sub-section (1) and shall, after giving reasonable opportunity to all persons affected thereby of being heard, make such modifications in the draft development plan as he may consider necessary, and submit not later than six months after the publication the draft development plan, the plan as so modified, to the State Government for approval together with all connected documents, plans, maps and charts.

20. (1) As soon as may be after the submission of the development plan under section 19 the State Government may, either approve the development plan or may approve it with such modifications as it may consider necessary or may return it to the Director to modify the same or to prepare afresh plan in accordance with such directions as the State Government may deem appropriate.

Sanction of development plans.

(2) Where the State Government approves the development plan with modifications, the State Government shall, by a notice, published in the Official Gazette, invite objections and suggestions in respect of such modifications within a period of not less than thirty days from the date of publication of the notice in the Official Gazette.

(3) After considering objections and suggestions and after giving a hearing to the persons desirous of being heard the State Government may confirm the modification in the development plan.

(4) The State Government shall publish the development plan as approved under the foregoing provisions in the Official Gazette and shall along with the plan publish a public notice in such manner as may be prescribed of the approval of the development plan and the place or places where the copies of the approved development plan may be inspected.

(5) The development plan shall come into operation from the date of publication thereof in the Official Gazette and as from such date shall be binding on all Development Authorities constituted under this Ordinance and all local authorities functioning within planning area.

(6) After the coming into operation of the development plan, the interim development plan shall stand modified or altered to the extent the proposals in the development plan are at variance with the interim development plan.

CHAPTER V

SECTORAL PLAN

Director to
prepare
sectoral
plan.

21. The Director may, on his own motion, at any time after the publication of the development plan, or thereafter if so required by the State Government shall, within six months of such requisition, prepare a sectoral plan.

Contents of
sectoral
plan.

22. (1) The sectoral plan shall enlarge the details of land use as indicated in the development plan and shall—

(a) indicate the land liable to acquisition for public purpose or the purposes of, the Union Government, the State Government, the Town and Country Development Authority, the Special Area Development Authority, the local authority or any other authority established by or under any enactment for the time being in force :

Provided that no land shall be so designated unless the acquisition proceedings are likely to be completed within ten years of the preparation of the Plan;

- (b) define in detail and provide for areas reserved for agriculture, public and semi-public open spaces, parks, playgrounds, gardens, recreational areas, green belts and nature reserves ;
- (c) allocate in detail areas or sectors for residential, commercial, industrial, agricultural and other purposes ;
- (d) define and provide for the complete road and street pattern for the present and in the future and indicate the traffic circulation ;

- (e) lay down in detail the projected road and street improvements;
- (f) indicate and provide for areas reserved for public buildings, institutions, and civic developments;
- (g) assess, make projections for and provide for the future requirements of amenities, services, and utilities such as municipal transport, electricity, water and drainage;
- (h) prescribe in detail the sectoral regulations for each sector, with a view to facilitating an individual layout and regulating the location, height, number of storeys and the size of buildings and other structures, the size of the courtyards, courts and other open spaces and the use of the buildings structures and land;
- (i) define areas which have been badly laid out or areas which have developed so as to form slums, and provide for their proper development and/or relocation;
- (j) designate areas for future development and expansion;
- (k) indicate the phasing of the programme of development.

(2) The sectoral plan may and, if possible, shall, indicate :—

- (a) control over architectural features, elevation and frontage of buildings and structures ; and
- (b) the details of development of specific areas for housing, shopping centres, industrial areas, educational and cultural institutions and civic centres.

23. The provisions of sections 19 and 20 shall apply for the preparation, publication, approval and operation of sectoral plan as they apply in respect of the development plan.

Provision of section 19 and 20 to apply to sectoral plan.

24. The Director may on his own motion or if so required by the State Government shall, at any time after the sectoral plan has come into operation, undertake a review and evaluation of the development plan and sectoral plan.

Review of development plan and sectoral plan.

(2) The foregoing provisions of sections 19, 20 and 23 shall, so far as may be, apply to the modification under sub-section (1) as those provisions apply in relation to the preparation, publication and approval of a development plan or a sectoral plan.

CHAPTER VI

CONTROL OF DEVELOPMENT AND USE OF LAND

25. The overall control of development and the use of land in the planning area shall, as from the date of publication in the Official Gazette of a notification by the State Government, vest in the Director.

Director to control land use.

26. (1) After the coming into force of the development plan, the use and development of land shall conform to the provisions of the development plan:

Conformity with development plan.

Provided that the Director may, at his discretion, permit the continued use of land for the purpose for which it was being used at the time of the coming into operation of the development plan:

Provided further that such permission shall not be granted for a period exceeding seven years from the date of coming into operation of the development plan.

Prohibition of development without permission.

27. After the coming into operation of the development plan, no person shall change the use of any land or carry out any development of land without the permission in writing of the Director:

Provided that no such permission shall be necessary—

- (a) for carrying out works for the maintenance, repair or alteration of any building which does not materially alter the external appearance of the buildings;
- (b) for carrying out of work for the improvement or maintenance of a highway, road or public street by the Union or State Government or an authority established under this Ordinance or by a local authority having jurisdiction, provided that such maintenance or improvement does not change the road alignment contrary to the provisions of the development plan;
- (c) for the purpose of inspecting, repairing or renewing any drain, sewers, mains, pipes, cables, telephone or other apparatus including the breaking open of any street or other land for that purpose;
- (d) for the excavation or soil-shaping in the interest of agriculture;
- (e) for restoration of land to its normal use where land has been used temporarily for any other purposes;
- (f) for use, for any purpose incidental to the use of building for human habitation, or any other building or land attached to such buildings;
- (g) for the construction of a road intended to give access to land solely for agricultural purposes.

Development undertaken on behalf of Union of State Government.

28. (1) When the Union Government or the State Government intends to carry out development of any land for the purpose of its departments or offices or authorities, the officer-in-charge thereof shall inform in writing to the Director the intention of the Government do so, giving full particulars thereof, accompanied by such documents and plans as may be prescribed at least thirty days before undertaking such development.

(2) Where the Director raises any objection to the proposed development on the ground that the development is not in conformity with the provisions of the development plan, the officer shall—

- (i) make necessary modifications in the proposals for development to meet the objections raised by the Director; or
- (ii) submit the proposal for development together with the objections raised by the Director to the State Government for decision:

Provided that where no modification is proposed by the Director within thirty days of the receipt of the proposed plan by the Government, the plan will be presumed to have been approved.

(3) The State Government, on receipt of the proposals for development together with the objections of the Director shall, approve the proposals with or without modifications or direct the officer to make such modifications in the proposals as it considers necessary in the circumstances.

(4) The decision of the State Government under sub-section (3) shall be final and binding.

29. Where a local authority or any authority specially constituted under this Ordinance intends to carry out development on any land for the purpose of that authority, the procedure applicable to the Union or State Government under section 28 shall, *mutatis-mutandis*, apply in respect of such authority.

Development by local authority or by any authority constituted under this Ordinance. Application for permission for development by others.

✓ 30. (1) Any person, not being the Union Government, State Government, a local authority or special authority constituted under this Ordinance intending to carry out any development on any land, shall make an application in writing to the Director for permission, in such form and containing such particulars and accompanied by such documents as may be prescribed.

(2) Such application shall also be accompanied by such fee as may be prescribed.

✓ 31. (1) On receipt of an application under section 30 the Director may, subject to the provisions of this Ordinance, by order in writing—

- (a) grant the permission unconditionally;
- (b) grant the permission, subject to such conditions as may be deemed necessary under the circumstances; or
- (c) refuse the permission.

(2) Every order granting permission subject to conditions, or refusing permission shall state the grounds for imposing such conditions or for such refusal.

(3) Any permission granted under sub-section (2) with or without conditions shall be in such manner as may be prescribed.

(4) Every order under sub-section (2) shall be communicated to the applicant in such manner as may be prescribed.

(5) If the Director does not communicate his decision whether to grant or refuse permission to the applicant within six months from the date of receipt of his application, such permission shall be deemed to have been granted to the applicant on the date immediately following the date of expiry of six months:

Provided that in computing the period of six months the period in between the date of requisitioning any further information or documents from the applicant and date of receipt of such information or documents from the applicant shall be excluded.

32. (1) Any applicant aggrieved by an order granting permission on conditions or refusing permission under section 31 may, within thirty days of the date of communication of order to him, prefer an appeal to an officer not below the rank of a Commissioner appointed by the State Government in this behalf, and such an appeal shall be made in such manner and accompanied by such fees as may be prescribed.

Appeal

(2) The officer appointed under sub-section (1) may after giving a reasonable opportunity to the appellant and the Director to be heard, by order, dismiss the appeal or allow the appeal by granting permission unconditionally or subject to the conditions as modified.

(3) Subject to the provisions of section 33 the order of the appellate authority shall be final.

Revision

33. The State Government may, at any time, but not later than twelve months of the passing of the order, on its own motion or on an application filed by the person aggrieved by any order of the appellate authority under section 32 within thirty days of the date of communication of such order to him, call for and examine the record of any case disposed of by Director under section 31 of appellate authority under section 32 for the purpose of satisfying itself as to the correctness of the order and as to the regularity of any proceeding of the Director or the Appellate Authority and may, when calling such record direct that the execution of the order be suspended. The State Government may, after examining the record, pass such order as it thinks fit and its order shall be final and no further application for revision or review thereof shall lie:

Provided that no order shall be passed unless the person affected thereby and the Director have been given a reasonable opportunity of being heard.

34. Every permission granted under section 31 or section 32 or section 33 shall remain in force for a period of one year from the date of such grant and thereafter it shall lapse:

Provided that the Director may, on an application, extend such period from year to year but the total period shall be in no case exceed three years from the date on which the permission was initially granted:

Provided further that such lapse shall not bar any subsequent application for fresh permission under this Ordinance.

Obligation
to acquire
land.

35. (1) Where any land is designated by a development plan as subject to compulsory acquisition—

- (a) for development for the purpose of town expansion or town improvement, or
- (b) for development for the purpose of the Union or State Government or a Local Authority or Special Area Development Authority constituted under this Ordinance, or
- (c) for development as a highway or a public utility services; and the owner of the land claims that—
 - (i) the land has become incapable of reasonably beneficial use in its existing state; or
 - (ii) the permission to develop land is given subject to conditions, that the land cannot be rendered capable of reasonably beneficial use by carrying out the permitted development in accordance with the conditions;
 - (iii) the sale value of the land has diminished because of the designation of the land for acquisition or development;
 - (iv) such owner may serve on the State Government within such time in such manner and together with such documents as may be prescribed, a notice requiring the appropriate authority to purchase his interest in the land in accordance with the provision of this Ordinance.

(2) On receipt of the notice under sub-section (1) the State Government shall, forthwith call from the Director and the appropriate authority such report or records or both, as may be necessary, which these authorities shall forward to the State Government as soon as possible but not later than thirty days from the date of their requisition.

(3) On receiving such records or reports, the State Government may—

- (a) if it is satisfied that the conditions specified in sub-section (1) are fulfilled, and that the order or decision for permission was not duly made on the ground that the applicant did not comply with any of the provisions of this Ordinance or the rules made thereunder, confirm the notice or direct that the permission be granted without conditions or subject to such conditions as will make the land capable of reasonably beneficial use;
- (b) in any other case refuse to confirm the notice but in that case, the applicant shall be given a reasonable opportunity of being heard.

(4) If within a period of one year from the date on which the notice is served, the State Government does not pass any final order thereon, the notice shall be deemed to have been confirmed at the expiration of that period.

(5) Upon confirmation of the notice, the State Government shall, within a period of one year of such confirmation, proceed to acquire the land or that part of any land regarding which the notice has been confirmed in accordance with the provisions of this Ordinance.

36. (1) The appropriate authority, if it is satisfied that the land is not or is no longer required for the public purpose for which it is designated or reserved or allocated in the draft development plan or sectoral plan, or the final development plan or sectoral plan may request,—

Deletion of
reservation
of designa-
ted land
from draft
of final
develop-
ment plan.

- (a) the Director to sanction the deletion of such designation or reservation or allocation from the draft development plan or sectoral plan, or
- (b) the State Government to sanction the deletion of such designation or reservation or allocation from the final development plan or sectoral plan.

(2) On receipt of such request from the appropriate authority, the Director or, as the case may be, the State Government may make an order sanctioning the deletion of such designation or reservation or allocation from the relevant plans :

Provided that, the Director or, as the case may be, the State Government may, before making any order, make such enquiry as he/it may consider necessary and satisfy himself/itself that such reservation or designation or allocation is no longer necessary in the public interest.

(3) Upon an order under sub-section (2) being made, the land shall be deemed to be released from such designation, reservation or, as the case may be, allocation and shall become available to the owner for the purpose of development as otherwise permissible in the case of adjacent land under the relevant plan.

Power of revocation and modification of permission to development.

37. (1) If it appears to the Town and Country Development Authority or Special Area Development Authority that it is expedient, having regard to the development plan prepared or under preparation and to any other material considerations, that any permission to develop land granted under this Ordinance or any other law, should be revoked or modified the Town and Country Development Authority or Special Area Development Authority may, by an order revoke or modify the permission to such extent as appears to it to be necessary :

Provided that —

(a) Where the permission related to the carrying out or building or other operations, no such orders—

(i) shall effect such of the operations as have been previously carried out ;

(ii) shall be passed after these operations have been completed ;

(b) Where permission related to a change of use of land, no such order shall be passed at any time after, the change has taken place.

(2) Where permission is revoked or modified by an order under the last foregoing section, and the owner claims from the Town and Country Development Authority or Special Area Development Authority, within the time and in the manner prescribed, amount in lieu of the expenditure incurred in carrying out the works after the grant of permission and in accordance with such permission, which has been rendered abortive by the revocation or modification the Town and Country Development Authority or Special Area Development Authority shall, after giving the owner reasonable opportunity of being heard by the Town Planning Officer and after considering his report, assess and offer subject to provisions of section 11 such amount to the owner as it thinks fit.

(3) If the owner does not accept, the amount and gives notice, within such time as may be prescribed, of his refusal to accept, the Town and Country Development Authority or Special Area Development Authority shall refer the matter for the adjudication of the court and the decision of the court shall be final and be binding on the owner and the Town and Country Development Authority or Special Area Development Authority.

38. Any person who, whether at his own instance or at the instance of any other person, commences, undertakes or carries out any development or changes use of any land—

(a) without permission required under this Ordinance,

(b) in contravention of the permission granted or any condition subject to which such permission has been granted,

(c) after the permission for development has been duly revoked, or

(d) in contravention of any permission which has been duly modified,

shall, without prejudice to any action that may be taken under section 39, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees or with both, and in the case of a continuing offence with further fine which may

Penalty for unauthorised development or for use otherwise than in conformity with development plan.

extend to two hundred rupees for every day during which the offence continues after conviction for the first commission of the offence.

39. (1) Where any development has been carried out as indicated in section 38 the Director may, within five years of such development, serve on the owner a notice requiring him, within such period being not less than one month and not exceeding three months as may be specified therein from the date of the service of the notice,—

Power to acquire removal of unauthorised development.

- (a) in cases specified in clause (a) or (c) of section 38 to restore the land to its condition existing before the said development took place;
- (b) in cases specified in clause (b) or (d) of section 38 to secure compliance with the conditions or with the permission as modified:

Provided that where the notice requires the discontinuance of any use of land, it shall be served on the occupier also.

(2) In particular, such notice may, for purpose of sub-section (1), require—

- (a) the demolition or alteration of any building or works,
- (b) the carrying out on land of any building or other operations, or
- (c) the discontinuance of any use of land.

(3) Any person aggrieved by such notice may, within fifteen days of the receipt of the notice and in the manner prescribed, apply to the Director for permission for retention on the land of any building or works or for the continuance of any use of the land, to which the notice relates and till the time the application is disposed of, the notice shall stand withdrawn.

(4) The foregoing provisions of this chapter shall, so far as may be applicable, apply to an application under sub-section (3).

(5) If the permission applied for is granted the notice shall stand withdrawn, but if the permission applied for is not granted, the notice, shall stand; or if such permission is granted for the retention only of some buildings, or works, or for the continuance of use of only a part of the land, the notice shall stand withdrawn as respect such buildings or works or such part of the land, but shall stand as respects other buildings or works or other parts of the land, as the case may be, and thereupon the owner shall be required to take steps specified in the notice under sub-section (1) as respects to such other buildings, works or part of the land.

(6) If within the period specified in the notice or within the same period after the disposal of the application the notice or so much of it as stands is not complied with, the Director may,—

- (a) prosecute the owner for not complying with the notice and whether the notice requires the discontinuance of any use of land, any other person also who uses the land or causes or permits the land to be used in contravention of the notice; and
- (b) where the notice required the demolition or any alteration of any building or works or carrying out of any building or other operations itself cause the restorations of the land to its condition before the

development took place and secure compliance with the condition of the permission or with the permission as modified by taking such steps as the Director may consider necessary, including demolition or alteration of any building or works or carrying out of any building or other operations, and recover the amount of any expenses incurred by him in this behalf from the owner as arrears of land revenue.

(7) Any person prosecuted under clause (a) of sub-section (6) shall, on conviction, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees or with both, and in the case of a continuing offence with further fine which may extend to two hundred and fifty rupees for every day during which the offence continues after conviction for the first commission of the offence.

CHAPTER VII

TOWN AND COUNTRY DEVELOPMENT AUTHORITY

Establish-
ment of
Town and
Country
Develop-
ment Au-
thority.

40. (1) The State Government may, by notification, establish a Town and Country Development Authority by such name and for such area as may be specified in the notification. If the State Government considers appropriate or expedient and economical to designate the local authority or authorities or any other authorities like State Housing Board, the State Government may by notification designate such authority or authorities as Town and Country Development Authority or Authorities for a particular area or areas to perform the functions of the Town and Country Development Authority or Authorities under this Ordinance in addition to their own duties and functions and in such cases sections 42, 43, 44, 45, 46 and 48 of this Ordinance will not operate.

(2) The duty of implementing the proposal in the development plan, preparing one or more town development schemes and acquisition and development of land for the purposes of expansion or improvement of the area specified in the notification under sub-section (1) shall, subject to the provisions of this Ordinance, vest in the Town and Country Development Authority established for the said area.

Incorpora-
tion of
Town and
Country
Develop-
ment Au-
thority.

41. Every Town and Country Development Authority shall be a body corporate by the name specified in the notification under section 40, and shall have perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and subject to the provisions of this Ordinance or any rules made thereunder, to transfer any property held by it, to contract and to do all other things necessary for the purposes of this Ordinance and may use and be used in its corporate name.

Constitution
of
Town
and Count-
ry Develop-
ment Author-
ity.

42. Every Town and Country Development Authority shall consist of—
(a) a Chairman;
(b) other members not exceeding six.

The Chairman and the members shall be appointed by the State Government:

Provided that State Government, may, if it considers it necessary so to do, constitute a single member Town and Country Development Authority.

43. (1) The names of the Chairman and the members shall be notified in the Official Gazette.

Term of office of Chairman and other members.

(2) The term of office of the Chairman and other members shall be such as may be prescribed.

(3) The person ceasing to be a Chairman or member by reason of the expiry of his term of office, shall if otherwise qualified be eligible for reappointment.

44. (1) Every person becoming a member under clause (b) of section 42 may at any time resign his office by writing under his hand addressed to the Chairman, and upon receipt of resignation by the Chairman, the office of the member shall become vacant.

Resignation of members and filling of casual vacancy.

(2) If the State Government considers that the continuance in office of any members is not in the public interest, the State Government may make an order terminating his appointment and thereupon he shall cease to be a member of the Town and Country Development Authority, notwithstanding that the term for which he was appointed has not expired.

(3) In the event of a vacancy occurring in the office of the Chairman or any member, the vacancy shall be filled by the State Government in accordance with the provisions of section 42 and the person so appointed shall hold office for remainder of the term of his predecessor.

45. (1) No member, other than the Chairman, shall receive any emoluments except such allowances as may be prescribed.

Remuneration of Chairman.

(2) The Chairman shall receive such salary and allowances and shall be subject to such terms and conditions of service as may be prescribed.

46. (1) The State Government may grant leave to the Chairman subject to such terms and conditions as may be prescribed.

Leave of absence and appointment etc., of acting Chairman.

(2) Whenever the Chairman is granted leave the State Government may appoint a person to act as Chairman in his place.

47. (1) The meetings of the Town and Country Development Authority shall be held at such time and at such place as may be laid down by regulations:

Provided that until regulations are made in this behalf such meeting shall be convened by the Chairman.

(2) The quorum of meeting shall, unless otherwise provided by regulations, be one-third of the total number of members of the Town and Country Development Authority.

(3) The Town and Country Development Authority shall make regulations to provide for the conduct of its business.

Meeting of Town and Country Development Authority.

Chief Executive Officer.

Other officers and servants.

Conditions of service of Chief Executive Officer and other officers and servants.

Town Development Schemes.

48. (1) There shall be a Chief Executive Officer of every Town and Country Development Authority who shall also act as the Secretary of the Authority.

(2) The Chief Executive Officer shall be appointed by the State Government.

49. Every Town and Country Development Authority may appoint such other officers and servants as may be necessary and proper for the efficient discharge of its duties:

Provided that no post shall be created save with prior sanction of the State Government:

Provided further that the power of appointment shall be subject to such restrictions as the State Government may, from time to time, impose.

50. (1) The Chief Executive Officer under section 48 and other officers and servants appointed under section 49 shall work under the superintendence and control of the Chairman.

(2) The State Government may make rules in respect of recruitment, qualifications, appointment, scale of pay, leave, leave allowance, loans, pension and other service conditions of the Chief Executive Officer and other officers and servants.

51. A Town Development Scheme may make provision for any of the following matters—

- (i) acquisition, development and sale or leasing of land for the purpose of town expansion;
- (ii) acquisition, relaying out of, rebuilding or relocating areas which have been badly laid out or which has developed or degenerated into a slum;
- (iii) acquisition and development of land for public purposes such as housing development, development of shopping centres, cultural centres, administrative centres;
- (iv) acquisition and development of areas for commercial and industrial purpose;
- (v) undertaking of such building or construction work as may be necessary to provide housing, shopping, commercial or other facilities;
- (vi) acquisition of land and its development for the purpose of laying out or remodelling of road and street patterns;
- (vii) acquisition and development of land for play-grounds, parks, recreation centres and stadium;

(viii) reconstruction of plots for the purpose of buildings, roads, drains, sewage lines and other similar amenities;

(ix) any other work of a nature such as would be about environmental improvements which may be taken up by the authority with the prior approval of the State Government.

52. (1) The Town and Country Development Authority may, at any time, declare its intention to prepare a town development scheme.

(2) Not later than thirty days from the date of such declaration of intention to make a scheme, the Town and Country Development Authority shall publish the declaration in the Official Gazette and in such other manner as may be prescribed.

(3) Not later than two years from the date of publication of the declaration under sub-section (2) the Town and Country Development Authority shall prepare a town development scheme in draft form and publish it in such form and manner as may be prescribed together with a notice inviting objections and suggestions from any person with respect to the said draft development scheme before such date as may be specified therein, such date being not earlier than thirty days from the date of publication of such notice.

(4) The Town and Country Development Authority shall consider all the objections and suggestions as may be received within the period specified in the notice under sub-section (3) and shall, after giving a reasonable opportunity to such persons affected thereby as are desirous of being heard, or after considering the report of the committee constituted under sub-section (5), approve the draft scheme as published or make such modifications therein as it may deem fit.

(5) Where the town development scheme relates to reconstitution of plots, the Town and Country Development Authority shall, notwithstanding anything contained in sub-section (4), constitute a committee consisting of the Chief Executive Officer of the said Authority and two other members of whom one shall be representative of the Himachal Pradesh Housing Board and the other shall be an officer of the Public Department not below the rank of an Executive Engineer nominated by the Chief Engineer, Public Works Department for the purpose of hearing objections and suggestions received under sub-section (3).

(6) The Committee constituted under sub-section (5) shall consider the objections and suggestions and give hearing to such persons as are desirous of being heard and shall submit its report to the Town and Country Development Authority within such time as it may fix along with proposals to:—

- (i) define and demarcate the areas allotted to or reserved for public purpose;
- (ii) demarcate the reconstituted plots;
- (iii) evaluate the value of the original and the constituted plots;
- (iv) determine whether the areas reserved for public purpose are whole or partially beneficial to the residents within the area of the scheme;
- (v) estimate and apportion the compensation to or contribution from the beneficiaries of the scheme on account of the reconstitution of the plot and reservation of portions for public purpose;

(vi) evaluate the increment in value of each reconstituted plot and assess the development contribution leviable on the plot holder:

Provided that the contribution shall not exceed half the accrued increment in value;

(vii) evaluate the reduction in value of any reconstituted plot and assess the amount payable therefor.

(7) Immediately after the town development scheme is approved under sub-section (4) with or without modifications the Town and Country Development Authority shall publish in the Official Gazette and in such other manner as may be prescribed a final town development scheme and specify the date on which it shall come into operation.

Power to revise the development schemes.

53. The Director may, at any time, but not later than two years from the date of publication of the final town development scheme, under section 52 on his own motion or on an application filed within thirty days of such publication of the final scheme by any person aggrieved by the final scheme, call for and examine the record of any scheme for the purpose of satisfying himself as to the correctness of the order passed by the Town and Country Development Authority, or as to the regularity of any proceedings of such Authority and when, calling such record direct that the execution of the scheme be suspended. The Director may, after examining the record, pass such order as he thinks fit and his order shall be final:

Provided that no order shall be passed unless the person affected thereby and the Town and Country Development Authority have been given a reasonable opportunity of being heard.

54. (1) The State Government may, if it considers necessary in public interest so to do, give directions to the Town and Country Development Authority:—

- (a) to frame a town development scheme;
- (b) to modify a town development scheme during execution;
- (c) to revoke a town development scheme, for reasons to be specified in such direction:

Provided that no direction to modify or revoke a town development scheme shall be given unless the Town and Country Development Authority is given an opportunity to present its case.

(2) The directions given by the State Government under this section shall be binding on the Town and Country Development Authority.

55. As from the date of publication of declaration to prepare a town development scheme, no person shall, within the area included in the scheme, institute or change the use of any land or building or carry out any development save in accordance with the development authorised by the Director in accordance with the provisions of this Ordinance prior to the publication of such declaration.

Restriction on land use and land development.

Lapse of scheme.

56. If the Town and Country Development Authority fails to implement the town development scheme within a period of three years from the date of publication of the final scheme under section 52, it shall, on the expiration of the said period of three years, lapse.

1 of 1894

57. Land needed for the purpose of town development scheme shall be deemed to be a land needed for a public purpose within the meaning of the Land Acquisition Act, 1894.

Town Development Scheme public purpose.
Acquisition of land for Town and Country Development Authority.

1 of 1894

58. The Town and Country Development Authority may at any time after the date of publication of the final town development scheme under section 52 but not later than three years therefrom, proceed to acquire by agreement the land required for the implementation of scheme and, on its failure so to acquire, the State Government may at the request of the Town and Country Development Authority, proceed to acquire such land under the provisions of the Land Acquisition Act, 1894, and on the payment of amount awarded under that Act and any other charges incurred by the State Government in connection with the acquisition, the land shall vest in the Town and Country Development Authority subject to such terms and conditions as may be prescribed.

Developments.

59. (1) The Town and Country Development Authority shall take necessary steps to develop the land vested in it under section 58 in accordance with the provisions of the town development scheme :

Provided that if the State Government or the Director has, after such enquiry as may be necessary, reason to believe that the Town and Country Development Authority is not taking adequate steps to develop the land or has deviated from the final scheme, it/he may give such directions to that Authority as may be considered necessary in the circumstances.

(2) The directions given under this section shall be binding on the Town and Country Development Authority and that Authority shall give effect to them forthwith.

Disposal of land, buildings and other development works.

60. Subject to such rules as may be made by the State Government in this behalf, the Town and Country Development Authority shall, by regulation, determine the procedure for the disposal of developed lands, houses, buildings and other structures.

Development charges.

61. (1) Where, as a result of the implementation of town development scheme, there is in the opinion of the Town and Country Development Authority, an appreciation in the market values of lands adjacent to and affected by a scheme the Town and Country Development Authority may, in lieu of providing for the acquisition of such land, levy development charges on owners of such land.

(2) The development charges shall be an amount equal to not less than one-fourth and not more than one-third of the difference between the value of the land on the date of publication of the intention to prepare the town development scheme and the date of completion of the scheme.

Mode of levy.

62. (1) On completion of the town development scheme, Town and Country Development Authority, shall, by a notice in such form and published in such manner as may be prescribed, declare the fact of such completion and of its intention to levy development charges in the area covered by the scheme, calling upon owners of land liable to pay development

charges to submit objection, if any, within such period which shall not be less than thirty days from the date of publication of the notice.

(2) The Authority specified in the notice shall after giving the objectors an opportunity to be heard, forward the report to the Town and Country Development Authority.

(3) On receipt of the report under sub-section (2) the Town and Country Development Authority shall pass such orders thereon as it may consider fit.

(4) The Town and Country Development Authority shall not later than three months after the publication of a notice declaring its intention to levy development charges, issue a notice in the prescribed form, assessing the charge due from every person affected by the levy of charges.

(2) Where the assessment is accepted it shall be final. If however, the assessment is not accepted, the person aggrieved may, within thirty days of the publication of notice, file an application in writing before the Revenue Officer not below the rank of Sub-Divisional Officer as may be authorised by the State Government in this behalf.

(6) The Revenue Officer may, after giving the applicant and the Town and Country Development Authority an opportunity to be heard, pass such orders on the application as he may deem fit under the circumstances and order so passed shall be final.

(7) The final determination of the assessment the Town and Country Development Authority shall cause a notice to be served on each assessee, asking him to pay the development charges within a period of sixty days from the date of receipt of the notice by him.

(8) Any payment made after the expiration of the period specified in the notice under sub-section (7) shall carry simple interest at 10 per cent per annum as from the date of the receipt of the notice by the Assessee.

(9) The Town and Country Development Authority may, on an application made to it in that behalf, permit assessee to make payment of development charges in annual instalments not exceeding five, and fix a date by which each instalment shall be payable.

(10) Where permission is granted to make payment in instalments the amount of development charges shall carry a simple interest at fifteen per cent per annum as from the date of the receipt of notice under sub-section (7) and the interest due shall be payable along with each instalment.

63. The Town and Country Development Authority shall have its own fund and all receipts of that Authority shall be credited thereto and all payment by that authority shall be made therefrom.

Fund of
Town and
Country
Develop-
ment Au-
thority.

Annual
Budget.

64. (1) The Chief Executive Officer or any other officer designated to act as the Chief Executive Officer, shall cause to be prepared not later than the 10th of March every year a statement of annual income and expenditure, giving the estimates and actuals of the past year and the estimates of the next financial year.

(2) The annual statement (hereinafter called the budget) so prepared shall be placed by the Chief Executive Officer or any other officer designated to act as the Chief Executive Officer, with the prior approval of the Chairman, before the Town and Country Development Authority.

(3) The Town and Country Development Authority shall consider the budget so submitted to it and sanction the same either unaltered, or subject to such alterations as it may think fit.

(4) A copy of the budget as sanctioned under sub-section (3) shall be submitted to the State Government and the Director.

(5) The State Government may direct the Town and Country Development Authority to make such modification in the budget as may be deemed necessary.

(6) The Town and Country Development Authority shall within thirty days of the date of receipt of such directions either accept the modification or make further submission to the State Government.

(7) The State Government, after considering the submissions of the Town and Country Development Authority shall pass such orders thereon as may be deemed fit and from the date of such orders, the budget shall be deemed in force, with modifications ordered by the Government.

65. Subject to such terms and conditions as may be prescribed the Town and Country Development Authority may, with the prior sanction of the State Government, issue debentures or borrow money from Government or the open market for all or any of the purposes of this Ordinance.

Power to
borrow
money.

CHAPTER VIII

SPECIAL AREAS

66. (1) If any area, town or township, is designated as a special area in the regional plan, or if the State Government is otherwise satisfied that it is expedient in the public interest that any area, town or township should be developed as a special area, it may, by notification, designate the area as a special area, which shall be known by such name as may be specified therein.

Constitu-
tion of spe-
cial areas.

(2) Such notification shall define the limits of special area.

(3) The State Government may, by notification,—

(a) alter the limits of the special area so as to include therein or exclude therefrom such area as may be specified in the notification ;
(b) declare that the special area shall cease to be so.

(4) Notwithstanding anything contained in the Himachal Pradesh Municipal Act, 1968 and the Himachal Pradesh Panchayati Raj Act, 1968, the Municipal Corporation, Municipal Committee, Notified Area Committee or a Panchayat, as the case may be, shall, in relation to the special area and as from the date the Special Area Development Authority undertakes the functions under clause (v) of clause (vi) of section 70 cease to exercise the powers and perform the functions and duties which the Special Area Development Authority is competent to exercise and perform under this Ordinance.

19 of 1968
19 of 1970

67. (1) Every special area shall have a Special Area Development Authority which shall consist of

(a) the Chairman; and

Special Ar-
ea Develop-
ment Au-
thority.

(b) such other members as Government may determine from time to time.

The Chairman and members shall be appointed by the State Government.

(2) The Chairman shall be a whole time salaried Officer and his salary and other terms and conditions of service shall be such as the State Government may, from time to time, determine.

(3) The members shall not be entitled to any salary but shall receive such allowances as may be prescribed.

Incorporation of Special Area Development Authority.

Staff

68. Every Special Area Development Authority shall be a body corporate with perpetual succession and a common seal and shall have power to acquire hold and dispose of property, both movable and immovable and to contract and sue and be sued by the name specified in the notification under sub-section (1) of section 66.

69. (1) Every Special Area Development Authority may appoint such officers and servants as may be necessary and proper for the efficient discharge of its duties:

Provided that no post shall be created save with the prior sanction of the State Government.

(2) The State Government may make rules in respect of recruitment, qualification, appointment, scale of pay, leave allowance and other conditions of service of the officers and servants appointed under sub-section (1).

Functions

70. The functions of the Special Area Development Authority shall be—

- (i) to prepare, if required to do so, the development plan for the special area;
- (ii) to implement the development plan after its approval by the State Government;
- (iii) for the purpose of implementation of the plan, to acquire, hold, develop, manage and dispose of land and other property;
- (iv) to carry out construction activity and to provide such utilities and amenities as water, electricity, drainage and the like;
- (v) to provide the Municipal services as specified in the Himachal Pradesh Municipal Act, 1968;
- (vi) to provide for the Municipal management of the special area in the same manner as is provided in the Himachal Pradesh Municipal Act, 1968;
- (vii) to otherwise perform all such functions with regard to the special area as the State Government may, from time to time, direct;

Provided that functions specified in clauses (v) and (vi) shall not be performed unless so required by the State Government.

71. The Special Area Development Authority shall—

Powers

- (a) for the purpose of acquisition of land, exercise the powers and follow the procedure which a Town and Country Development Authority have to follow under this Ordinance;
- (b) for the purpose of planning, exercise the powers which the Director has under this Ordinance;
- (c) for this purpose of municipal administration, have the powers which a Municipal Committee has under the Himachal Pradesh Municipal Act, 1968.

72. (1) Every Special Area Development Authority shall have its own fund and all receipts of that authority shall be credited thereto and all payments of that Authority shall be made therefrom.

Fund of Special Area Development Authority.

(2) The Special Area Development Authority shall levy the development charge in the manner as prescribed under sections 61 and 62 of this Ordinance.

(3) The Special Area Development Authority may for all or any of the purposes of this Ordinance—

- (a) accept grants from the State Government or a local authority;
- (b) raise loans, subject to such terms and conditions as may be prescribed.

73. (1) The Chairman shall lay, not later than 10th of March every year, before the Special Area Development Authority an estimate of the income and of the expenditure of that authority for the year commencing on the first day of April next ensuing in such detail and form as that Authority may from time to time direct.

Annual Estimates.

(2) Such estimates shall make provision for the due fulfilment of all liabilities of the Special Area Development Authority and for the efficient implementation of this Ordinance and shall be complete and a copy thereof shall be sent to each member of that Authority at least ten clear days prior to the meeting before which the estimate is to be laid.

(3) The Special Area Development Authority shall consider the estimate so submitted and shall sanction the same either unaltered or subject to such alterations as it may think fit.

(4) The estimates so sanctioned shall be submitted to the state Government who may approve the same with or without modifications.

(5) If the State Government approves the estimates with modifications, the Special Area Development Authority shall proceed to amend the same and the estimates so modified and amended shall be in force during the year.

CHAPTER IX

CONTROL

74. The State Government shall have power of superintendence and control over the acts and proceedings of the officers appointed under section 3 and the authorities constituted under this Ordinance.

Power of State Government of supervision and control.

Power of State Government to give directions.

75. (1) In the discharge of their duties the officers appointed under section 3 and the authorities constituted under this Ordinance shall be bound by such directions on matters of policy as may be given to them by the State Government.

(2) If any disputes arises between the State Government and any authority, as to whether a question is or is not a question of policy, the decision of the State Government shall be final.

Power of Government to review plans etc. for ensuring conformity.

76. Notwithstanding anything contained in any other enactment for the time being in force, the state Government may, with a view to ascertaining that no repugnancy exists or arises with the provisions of this Ordinance or the rules made thereunder, review the town improvement schemes, building plans or any permission for construction sanctioned or given by any authority under development plans, sanctioned under any enactment, for the time being in force and may revoke, vary, or modify any scheme, plan, permission or sanction in conformity with the provisions of this Ordinance:

Provided that no order under this section shall be made without giving a reasonable opportunity of being heard to the persons affected thereby.

Delegation of powers.

77. (1) The State Government may, by notification, delegate to any officer or authority subordinate to it all or any powers conferred on it by or under this Ordinance, other than the power to make rules.

(2) Subject to such restrictions as may be imposed by the State Government by a general or special order, the Director may, by an order in writing, delegate to any officer subordinate to him all or any powers exercisable by him under this Ordinance or the rules made thereunder, other than the power to hear appeal and revision.

Dissolution of authorities.

78. (1) Whenever in the opinion of the State Government the continued existence of any authority constituted under this Ordinance is unnecessary or undesirable, the State Government may, by notification, declare that such authority shall be dissolved from such date as may be specified therein and the authority shall stand dissolved accordingly.

(2) As from the said date—

(a) all the properties, funds and dues which are vested in or realisable by the authority, shall vest in, or be realisable by the State Government;

(b) all liabilities which are enforceable against the Authority shall be enforceable against the State Government;

(c) for the purpose of realising properties, funds, and dues referred to in clause (a), the function of the authority shall be discharged by the State Government;

(d) all powers and functions to be exercised or discharged by the Authority under this Ordinance shall be exercised and discharged by the Director and for that purpose any reference in this Ordinance to the said authority shall be construed as a reference to the Director.

CHAPTER X

MISCELLANEOUS

79. (1) Without prejudice to any other provisions of this Ordinance the Director or any Authority established under this Ordinance may enter into or upon, or cause to be entered into or upon any land or building for the purpose of the preparation of plan or scheme under this Ordinance for—

Right of entry.

- (a) making any measurement of survey or taking levels of such land or building;
- (b) setting out a marking boundaries and intended lines of development;
- (c) making such levels, boundaries and lines by placing marks and cutting trenches;
- (d) examining works under construction and ascertaining the course of sewers and drains;
- (e) ascertaining whether any land is being or has been developed in contravention of any provision of this Ordinance or the rules or the regulations made thereunder:

Provided that—

- (i) in the case of any building used as a dwelling house, or upon any enclosed part of garden attached to such a building, no such entry shall be made except between the hours of sunrise and sunset or without giving its occupier at least 24 hours' notice in writing of the intention to enter;
- (ii) sufficient opportunity shall in every instance be given to enable women (if any) to withdraw from such land or building;
- (iii) due regard shall always be had so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or building entered.

(2) Any person who obstructs the entry of an officer empowered or duly authorised under this section to enter into or upon any land or building or molests such officer after such entry shall, on conviction, be punished with simple imprisonment for a term which may extend to three months, or with a fine which may extend to five hundred rupees or with both.

80. No court inferior to that of Magistrate of the first class shall try an offence punishable under this Ordinance.

Jurisdiction of Court.

81. No court shall take cognizance of any offence under this Ordinance except on a complaint in writing made over the signatures of an officer duly authorised by the Director or a Town and Country Development Authority or a Special Area Development Authority, as the case may be.

Cognizance of offences.

82. Every member and every officer of any authority established under this Ordinance shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

Member and officers to be public servants.

83. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Ordinance or any rules made thereunder.

Suit and other proceedings.

Vacancy not to invalidate proceedings.

84. No act of a Town and Country Development Authority or a Special Area Development Authority or any of its committee shall be invalid merely by reason of—

- (a) any vacancy in, or defect in the constitution thereof; or
- (b) any defect in the appointment of a person acting as a Chairman or member thereof; or
- (c) any irregularity in the procedure thereof not affecting the merits of case.

Members to continue till successor enters upon office.

85. A Chairman or a member of a Town and Country Development Authority or a Special Area Development Authority shall notwithstanding the expiration of his term, continue to hold office till his successor enters office.

Interpretation of regional plan, etc.

86. (1) If any question arises regarding the interpretation of any regional plan, the matter shall be referred to the Director who shall pass such order thereon as may be deemed fit.

(2) Any person aggrieved by the decision of the Director may prefer an appeal to the State Government within such time and in such manner as may be prescribed.

(3) The decision of the State Government and subject to the decision of the State Government, the decision of the Director shall be final.

CHAPTER XI

RULES AND REGULATIONS

Power to make rules. 87. (1) The State Government may, after previous publication, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (i) other categories of officers which may be appointed under section 3 (1);
- (ii) the form and manner of publication of notice inviting objections and suggestions under section 8 (1);
- (iii) the manner of publication of the regional plan under section 9 (2);
- (iv) the manner of publication of an existing land use map under section 15 (1) for inviting objections and suggestions;
- (v) the regulation of the forms and contents of interim Development Plan under section 17;
- (vi) the manner of publication of the draft development plan under section 19 (1);
- (vii) the manner of publication of public notice under section 20 (4);
- (viii) the documents and plans which shall accompany the information under section 28 (1);
- (ix) (a) the form application under section 30 (1), the particulars which such application shall contain and the documents which shall accompany such application;
- (b) the fee which shall be accompanied with the application under section 30 (2);

- (x) the form in which permission shall be granted under section 31 (3);
- (xi) the manner of communication of order under section 31(4);
- (xii) the manner in which the appeal shall be made and the fees which shall accompany such appeal under section 32 (1);
- (xiii) the time within which, the manner in which and the documents together with which a notice shall be served under section 35(1);
- (xiv) the manner in which amount in lieu of expenditure incurred after the grant of permission may be assessed under section 37 (1);
- (xv) the manner in which an application shall be made under section 39 (3);
- (xvi) the manner of publication of declaration under section 52 (2);
- (xvii) the form in which and the manner in which the town development schemes in draft form shall be published under section 52 (2);
- (xviii) the manner in which the final town development scheme shall be published under section 52 (7);
- (xix) the terms and conditions subject to which the land shall vest in the Town and Country Development Authority under section 58;
- (xx) (a) the form in which and the manner in which a notice shall be published under section 61 (1);
 (b) the form in which a motion shall be issued under section 62 (4);
- (xxi) the terms and conditions subject to which the Town and Country Development Authority may issue debentures or borrow money under section 65;
- (xxii) the terms and conditions subject to which loans may be raised under section 72 (2); and
- (xxiii) any other matter for which rules may be made.

88. (1) A Town and Country Development Authority or a Special Area Development Authority, as the case may be, may, subject to the provisions of this Ordinance and the rules made thereunder, make regulations generally to carry out the purposes of this Ordinance. Regulations

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

- (a) the summoning and holding of meetings, the time and place where such meetings shall be held, the conduct of business thereat;
- (b) procedure for disposal of developed lands, houses, buildings and other structures under section 60;
- (c) the management of property and the maintenance and audit of accounts;
- (d) the mode of appointment of committees, the summoning and holding of meetings, and the conduct of business of each committees;
- (e) such other materials as may be necessary for the exercise of the powers and performance of duties and functions by the Town and

Country Development Authority or the Special Area Development Authority as the case may be, under this Ordinance.

Power to
lay the rules
and regulations.

89. Every rules made under section 87 or the regulation made under section 88 shall be laid, as soon as may be after it is made, before the Legislative Assembly of Himachal Pradesh while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or regulations, as the case may be, or decides that the rule or regulations should not be made, the rule or regulations, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity or anything previously done under that rule or regulation.

SIMLA :
Dated 10-2-1977.

S. CHAKRAVARTI,
Governor.

M. C. PADAM,
Under Secretary (Law).